



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-073, C-570-074]

Common Alloy Aluminum Sheet from the People's Republic of China: Initiation of Circumvention Inquiry of the Antidumping and Countervailing Duty Orders – 4017 Aluminum Sheet

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: In response to a circumvention inquiry request from the Aluminum Association Common Alloy Aluminum Sheet Working Group and its individual members, the U.S. Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of aluminum sheet produced from aluminum alloy 4017 are circumventing the antidumping (AD) and countervailing duty (CVD) orders on common alloy aluminum sheet (CAAS) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Frank Schmitt, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4880.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 2022, the Aluminum Association Common Alloy Aluminum Sheet Working Group and its individual members (collectively, the domestic industry),¹ requested that Commerce initiate a circumvention inquiry with regard to aluminum sheet produced from

¹ The individual members of the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group are Arconic Corporation; Commonwealth Rolled Products, Inc.; Constellium Rolled Products Ravenswood, LLC; Jupiter Aluminum Corporation; JW Aluminum Company; and Novelis Corporation.

aluminum alloy 4017 (4017 aluminum sheet) in, and exported from, China.² The domestic industry alleges that 4017 aluminum sheet constitutes merchandise altered in form or appearance in minor respects, and therefore should be included within the scope of the *Orders*³ pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act).⁴

On August 4, 2022, we extended the deadline to issue a decision regarding whether to initiate this circumvention inquiry by 15 days, in accordance with the 19 CFR 351.226(d)(1), to August 22, 2022.⁵

Scope of the *Orders*

The merchandise covered by the *Orders* is aluminum common alloy sheet (common alloy sheet), which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. For a complete description of the scope of the *Orders*, see the appendix to this notice.

Merchandise Subject to the Circumvention Inquiry

The merchandise subject to the circumvention inquiry is 4017 aluminum sheet, having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. According to the Domestic Industry, such 4017 aluminum sheet is a not clad aluminum sheet product whose chemical content has been modified from in-scope CAAS. All 4017 aluminum sheet that meets the scope description with respect to physical characteristics (other than principle alloying element) is subject to this inquiry. The subject 4017 aluminum sheet is currently classifiable under Harmonized Tariff Schedule of the United States subheading 7607.12.3096.

² See Domestic Industry's Letter, "Common Alloy Aluminum Sheet from China – Domestic Industry request for Circumvention Ruling Pursuant to Section 781(c) of the tariff Act of 1930, as Amended," dated July 7, 2022 (Circumvention Allegation).

³ See *Common Alloy Aluminum Sheet from the People's Republic of China: Antidumping Duty Order*, 84 FR 2813 (February 8, 2019); and *Common Alloy Aluminum Sheet from the People's Republic of China: Countervailing Duty Order*, 84 FR 2157 (February 6, 2019) (collectively, *Orders*).

⁴ See 19 CFR 351.226(j).

⁵ See Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China (A-570-073, C-570-074): Extension of Time to Determine Whether to Initiate Circumvention Inquiry," dated August 4, 2022.

Statutory and Regulatory Framework

Section 351.226(d)(1)(ii) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each request for a circumvention inquiry allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these allegations." The domestic industry alleged circumvention pursuant to section 781(c) of the Act (merchandise altered in form or appearance in minor respects).

In accordance with 19 CFR 351.226(m)(2), for companion antidumping and countervailing duty proceedings, "the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping proceeding." Further, once "the Secretary issues a final circumvention determination on the record of the antidumping duty proceeding, the Secretary will include a copy of that determination on the record of the countervailing duty proceeding." Accordingly, once Commerce concludes this circumvention inquiry, Commerce intends to place its final circumvention determination on the record of the companion CVD proceeding.

Section 781(c)(1) of the Act provides that the class or kind of merchandise subject to an AD or CVD order shall include articles that have been "altered in form or appearance in minor respects . . . whether or not included in the same tariff classification." Section 781(c)(2) of the Act provides an exception that section 781(c)(1) of the Act "shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {order}." Concerning the allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.226(j), Commerce may consider criteria including, but not limited to: (1) overall physical characteristics of the

merchandise; (2) expectations of ultimate users; (3) use of the merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.

Analysis

After analyzing the record evidence and the domestic industry's allegation, we determine that the circumvention request satisfies the requirements of 19 CFR 351.226(c) and that there is sufficient information to warrant initiation of a circumvention inquiry based on minor alterations, pursuant to section 781(c) of the Act and 19 CFR 351.226(j). For a full discussion of the basis for our decision to initiate a circumvention inquiry, *see* the Initiation Decision Memorandum.⁶

As explained in the Initiation Decision Memorandum, the information provided by the domestic industry also warrants initiating this circumvention inquiry on a country-wide basis.⁷ Commerce has taken this approach in prior circumvention inquiries, when the facts warranted initiation on a country-wide basis.⁸

Commerce intends to establish a schedule for questionnaires and comments on the issues related to this inquiry. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce intends to notify U.S. Customs and Border Protection (CBP) of this initiation and direct CBP to continue the suspension of liquidation of entries of products subject to this circumvention inquiry that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit requirement at the rates

⁶ *See* Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China: Decision Memorandum for Initiation of Circumvention Inquiry on the Antidumping and Countervailing Duty Orders," dated concurrently with and hereby adopted by this notice (Initiation Decision Memorandum). This memorandum is a public document and is available electronically online via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

⁷ *See* Initiation Decision Memorandum at 8.

⁸ *See, e.g., Aluminum Extrusions from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Rescission of Minor Alterations Anti-Circumvention Inquiry*, 82 FR 4630 (July 26, 2017), and accompanying Issues And Decision Memorandum, at Comment 4.

that would be applicable if the products were determined to be covered by the scope of the *Orders*. Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(1)(2)-(4).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and sections 781(c) and (d) of the Act, Commerce determines that the domestic industry's request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of this circumvention inquiry to determine whether 4017 aluminum alloy produced in, and exported from, China is circumventing the *Orders*. In addition, we have included a description of the products that are the subject to this inquiry and an explanation of Commerce's decision to initiate this inquiry as provided in the accompanying Initiation Decision Memorandum.⁹ In accordance with 19 CFR 351.226(e)(1), Commerce intends to issue its preliminary circumvention determination no later than 150 days from the date of publication of the notice of initiation of this circumvention inquiry in the *Federal Register*.

This notice is published in accordance with section 781(c) of the Act and 19 CFR 351.226(d)(1)(ii).

Dated: August 22, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

⁹ See Initiation Decision Memorandum.

Appendix

Scope of the *Orders*

The merchandise covered by the *Orders* is aluminum common alloy sheet (common alloy sheet), which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of the *Orders* includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core.

Common alloy sheet may be made to ASTM specification B209-14, but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of the *Orders* is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Further, merchandise that falls within the scope of the *Orders* may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3030, 7606.91.3060, 7606.91.6040, 7606.92.3060, 7606.92.6040, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.